



City of
Rockville
Get Into It

Board of Appeals Staff Report Variance Application VAR2013-00035

MEETING DATE: April 13, 2013

REPORT DATE: April 5, 2013

FROM: Margaret M. Hall, Planner II,
Planning Division
240.314.8226
mhall@rockvillemd.gov

**APPLICATION
DESCRIPTION:**

Variance of 8 feet from the side setback requirement of 11 feet in order to construct a garage/office addition attached to the existing house by a breezeway.



**PROPERTY
LOCATION:**

315 Great Falls Road

APPLICANT:

Dominic Argentieri and Megan Dankovich
315 Great Falls Road
Rockville, Maryland 20850

FILING DATE:

February 15, 2013

RECOMMENDATION:

Approval, subject to the conditions noted on page 3 of the Staff Report.

REQUEST: The applicants seek approval of a Variance in order to construct a garage/office addition to the existing historic house. The addition is proposed to encroach 8 feet into the required 11 foot side yard setback.

PROJECT/SITE INFORMATION:

Location: 315 Great Falls Road
Land Use Designation: Detached Residential
(Medium Density, 2.5 to 4 Units Per Acre)
Zoning District: R-90HD, Single Unit Detached Dwelling
Restricted Residential, Historic District
Parcel Area: 19,103 Square Feet
Current Use : Single-Unit Detached Residential
Proposed Use: Same
Proposed Floor Area: 645 Square Feet. The garage/office measures 20 feet x 26 feet
and the breezeway measures approximately 17.8 feet wide x 7
feet in depth.
Proposed Height: 22 Feet 6 Inches

Surrounding Land Use and Zoning			
Location	Zoning	Planned Land Use	Existing Use
North	R-90, Single Unit Detached Dwelling Restricted Residential	Detached Residential (Medium Density, 2.5 to 4 Units Per Acre)	Single-Unit Detached Residential
South	PD-RH, Planned Development – Rose Hill	Detached Residential (High Density, over 4 Units Per Acre)	Single-Unit Detached Residential
East	R-90, Single Unit Detached Dwelling Restricted Residential	Detached Residential (Medium Density, 2.5 to 4 Units Per Acre)	Single-Unit Detached Residential
West	R-90, Single Unit Detached Dwelling Restricted Residential	Detached Residential (Medium Density, 2.5 to 4 Units Per Acre)	Single-Unit Detached Residential

PREVIOUS RELATED ACTIONS:

- December 20, 2012 – Historic District Application HDC2013-00605 for courtesy review of a proposed two-story garage/office addition on west side of the house and two-story kitchen/screen porch/master suite on east side/rear.

ANALYSIS:

Project Proposal

The applicant proposes two additions to the existing Colonial Revival style cottage: a rear two-story addition to the northeast corner of the house and a two-story garage addition on the west side of the house. The proposed garage addition encroaches into the required side yard setback necessitating the need for the Variance.



Property Description and Background

The property is made up of a 17,663 square foot lot that is improved with a single-family dwelling. The house seems to have been developed somewhere around 1927, partially on a rubble stone foundation that previously supported a barn or other agricultural building. The property is one of the remnant parcels of the 1,620 acre property included in the Exchange and New Exchange Enlarged Patent Record dating back to 1735. It survives as a deeded parcel with no portion of it having appeared on a plat of subdivision. The property received local historic designation in 2003.

Up until 1948, the house was located on the same lot as the commonly owned property at 307 Great Falls Road. It appears that not much is known about some of the occupants of the house but speculation is that it may have been used by the owners as either a rental house or summer house. Since 1948, the house has been located on a separate parcel and owned separately.

Requested Variance

Section 25.10.05.a requires 11 foot side yard setbacks for properties located in the R-90 Zone. The addition is proposed 3 feet from the side property line, requiring an 8 foot side yard setback Variance.

Applicable Sections of the Zoning Ordinance

Section 25.03.02 defines the term "Variance" as, "a modification only of the density, bulk or area requirements in the Zoning Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of any action taken by the applicant, a literal enforcement of this Chapter would result in practical difficulty."

Section 25.03.02 defines setback as "the minimum perpendicular distance required between a lot line and any building or structure constructed or which may be constructed thereon consistent with the setback requirements of the zone in which such lot is located."

Staff Analysis and Findings

Per Section 25.06.03.e, the following are the findings that must be made in order for the Board to approve a variance.

1. **The variance as requested would not be contrary to the public interest.**

Two historically designated properties are located to the northeast of the subject property. Houses constructed in the 1960s within the Brewer's Addition to Rockville subdivision are located to the northwest. According to the tax records, the houses across the street, to the southeast were constructed in 1931 and 1955. Houses

constructed in 2000 and 2001, located in the Rose Hill subdivision, are located to the southwest.

The proposed encroachment is located on the southwestern side of the property abutting the homes located in the Rose Hill Subdivision. Separating the houses in the Rose Hill subdivision and the subject property is a 20 foot wide parcel, owned by the Rose Hill Homeowners Association (HOA), the full width of which is encumbered by a storm drain, water and sewer easement (SD, W&S). On top of the SD, W&S easement is a 15 foot wide pedestrian ingress/egress easement. Further, the two adjacent properties in the Rose Hill subdivision are encumbered by a waterline easement and more of the SD, W&S easement. The easements occupy a minimum of nine feet of the rear yards of the abutting properties.

Due to the close proximity of the proposed addition to the common property line, the Department of Public Works was consulted to determine if they have any objection to the placement of the structure. It was felt that there is adequate width within the easement to service it if need be.

An application for Courtesy Review was submitted for Historic District Commission (HDC) review for any impact the proposed additions may have on the historic property and structure. The Commission felt that the additions were compatible as presented but the proposal will need to go back to the Historic District Commission for review and approval if the Variance is granted.

The net result is that the proposed addition will be a minimum of 32 feet away from any construction that could occur on the abutting properties - twenty feet for the HOA property, a minimum of nine feet on the Rose Hill lots and the three feet proposed by the applicant from the property line. The significant separation and development limitations will preserve the development separations envisioned by the Zoning Ordinance and will not be contrary to the public interest.

2. The variance is requested owing to conditions peculiar to the property and not the result of any action taken by the applicant.

The house is located more than 80 feet from the street. According to the Maryland Historical Trust Inventory of Historic Properties Form, the house was most likely placed in its location to partially take advantage of an existing foundation. It is also felt that its location is reflective of its original configuration as an outbuilding on a larger property rather than the primary structure on the current property.

In keeping with the historic preservation guidelines, the two additions, the garage and the master bedroom suite addition are not meant to imitate the architecture of the historic structure but, rather, to compliment it. The two additions were designed to

look like they are outbuildings. The design is intended to make it appear that the house expanded between the outbuildings instead of the other way around. The sunroom addition is located on the southern side of the house. There is no documentation to indicate when it was constructed but it is considered to be an important feature to the overall look and history of the house. Separating the garage addition from the house is meant to provide visual separation and minimal impact to the existing sunroom addition.

Trees are considered to be an important facet of the setting associated with historic properties and are part of the HDC's consideration process in evaluating development proposals. Placing the garage in the rear yard is complicated by a large walnut tree that may be as much as 200 years old. Some of the root zone will be impacted by the master bedroom suite addition. It is felt that by attaching the garage to the side of the house by a breezeway instead of placing it in the rear yard, there will be far less impact to the critical root zone of the tree. Placing the garage near the rear property line of the lot is further complicated by the impact it would have on some mature trees on the abutting property.

As a result, because the site and abutting properties will be far more impacted by any other alternative, the Variance is requested owing to conditions peculiar to the property that are not the result of any action taken by the applicant.

3. A literal enforcement of the Ordinance will result in practical difficulty.

The applicant's desire is to place a garage and additional living area on the property. Although the lot is significantly larger at 19,103 square feet than the minimum 9,000 square feet required in the R-90 Zone, there are several factors that limit the placement of a garage as an accessory building on the property.

As mentioned above, the house is set back more than 80 feet from the front property line. This results in a rear yard with a shorter depth than usually associated with lots more than 170 feet deep. Within the 50 foot depth, a good share of the rear yard is included within the critical root zones of the walnut tree on this property and the trees on the property abutting the rear lot line. The critical root zone of the walnut tree will also be impacted by the master bedroom suite proposed on the right side of the house. The impact caused by that addition does not preclude the placement of the garage onto the house but it does increase the odds that the tree could suffer from the construction. In order to avoid the tree roots in the rear yard, the best alternative is to place the garage as far forward on the lot as possible.

The Zoning Ordinance limits accessory buildings to the rear yard. Therefore to place the 20' x 26' garage in the side yard, it must be constructed as an addition to the main structure. There is adequate room to place the structure between the house and the

property line without encroaching into the side yard setback but it would require that the addition be placed close to the existing sunroom on the left side of the house, which is not acceptable based to the impact it would have on the existing structure.

The Zoning Ordinance also limits accessory buildings to one story in height and no more than 12 feet in height (measured from the finished grade along the front of the structure to the peak of the roof) in order for them to be placed 3 feet off the side lot line. The proposed addition is designed to be 22 feet 6 inches tall.

It is theoretically possible to place the garage as an addition in the front yard but, again, it is not acceptable due to the impact on the historic house.

Based on the above, a literal enforcement of the Zoning Ordinance would result in practical difficulty due to the impact it could have on the long term survival of the walnut tree in the rear yard and the visual and functional impact on the existing historic structure.

4. The approval of the variance is not inconsistent with the purposes of the Zoning Ordinance.

Within the City, most lots similar to this one could have an accessory building in the proposed location without the need for a Variance due to the fact that the house most likely would be placed closer to the street. However, accessory buildings must be placed in the rear yard. If the structure were freestanding, it would be an accessory building but, because the house and garage share a roof via the breezeway connecting them, it is considered an addition to the main structure.

Per Building Code, this proposal will require fire rated walls within five feet of the property line. Building maintenance might be an issue if the property owner isn't granted permission from the Rose Hill HOA to enter their property to erect a ladder if need be. These are issues the applicant will need to work out if the Variance is granted. Staff understands the aesthetic reasons behind the garage's design. Architecturally, the increased height of the structure provides a sense of balance across the front of the house. Although the Zoning Ordinance, through the side yard setback requirements, the requirement that accessory buildings be placed in the rear yard away from the main dwelling and the prohibition of a separate dwelling unit in accessory buildings, does not envision fully habitable space so close to the property line, staff believes that placement of the garage addition to within three feet of the property line is not inconsistent with the Zoning Ordinance because it is an addition that looks like an accessory building, and separation between adjacent structures is maintained.

STAFF RECOMMENDATION:

Based on the above, staff recommends approval of the 8 foot side yard setback variance requested with Variance Application VAR2013-00034 for a garage addition, subject to the following condition.

1. That the garage addition be constructed in substantial accordance with the submitted plans;
2. That the study for the walnut tree in the rear yard be expanded to include an evaluation of how the combined impact of additions affect the critical root zone of the tree for consideration by the Historic District Commission; and
3. The applicant must submit an Affidavit of Posting certifying that the public hearing sign has been posted on the property in accordance with City requirements.

NOTIFICATION:

Notices about the public hearing were sent to 95 residences, including those that are legally required and the West End Citizens Association (WECA) and Rose Hill Homeowners Association.

ATTACHMENTS:

Attachment 1	Zoning Map
Attachment 2	Planned Land Use Map
Attachment 3	Aerial Map
Attachment 4	Application and Plans
Attachment 5	HDC Staff Report